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IMPORTANT INFORMATION

SUBPOENA (INTERPROVINCIAL) ACT

[RSBC 1996] CHAPTER 442

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Definitions

1 In this Act:

"**court**" means any court in a province of Canada;

"**subpoena**" means a subpoena or other document requiring a person in a province, other than the province where the subpoena originates, to attend as a witness, to produce documents or other articles or to testify before that court.

Adoption of interprovincial subpoena

2 (1) A court in British Columbia must receive and adopt as an order of the court a subpoena from a court outside British Columbia if

(a) the subpoena is accompanied by a certificate, attached to or endorsed on the subpoena, signed by a judge of a superior, county or district court of the province where the subpoena originates and impressed with the seal of that court, signifying that, on hearing and examining the applicant or the applicant's counsel, the judge is satisfied that the attendance, in the province where the subpoena originates, of the person subpoenaed

(i) is necessary for the adjudication of the proceeding in which the subpoena is issued, and

(ii) in relation to the nature and importance of the proceeding, is reasonable and essential to the administration of justice in that province, and

(b) the subpoena is accompanied by the witness fees and travelling expenses in accordance with Schedule A.

(2) The certificate referred to in subsection (1) (a) must be in the form set out in Schedule B or in a similar form.

Immunity by law of other province

3 A court in British Columbia must not adopt a subpoena from another province under section 2 unless the law of that other province has a provision similar to section 6 providing absolute immunity to a person in British Columbia who is required to attend as a witness in the other province from all proceedings of the nature set out in section 6 and within the jurisdiction of the Legislature of that other province, except a proceeding grounded on events occurring during or after the required attendance of the person in the other province.

Failure to comply with adopted subpoena

4 If a person who has been served with a subpoena adopted under section 2 and given the witness fee and travelling expenses in accordance with Schedule A at least 10 days, or a shorter period as the judge of the court in the province where the subpoena originates may indicate in the certificate, before the date the person is required to attend in the court in the province where the subpoena originates, fails without lawful excuse to comply with the order, the person is in contempt of the adopting court and subject to the penalty that court imposes.

Proceedings in British Columbia

5 (1) If a party to a proceeding in any court in British Columbia causes a subpoena to be issued for service in another province in Canada, the party may attend on a judge of the Supreme Court, who must hear and examine the party or the party's counsel, if any, and must sign a certificate if satisfied that the attendance in British Columbia of the person subpoenaed as a witness

(a) is necessary for the adjudication of the proceeding in which the subpoena is issued, and

(b) in relation to the nature and importance of the proceeding, is reasonable and essential to the administration of justice in British Columbia.

(2) The certificate must be in the form set out in Schedule B or in a similar form.

(3) The judge must cause the certificate to be impressed with the seal of the court.

(4) The certificate must be either attached to or endorsed on the subpoena.

No submission to jurisdiction

6 A person required to attend before a court in British Columbia by a subpoena adopted by a court

outside British Columbia

(a) is deemed, while in British Columbia in answer to the subpoena, not to have submitted to the jurisdiction of the courts of British Columbia except as a witness in the proceedings in which the person is subpoenaed, and

(b) is absolutely immune from seizure of goods, service of process, execution of judgment, garnishment, imprisonment or molestation of any kind relating to a legal or judicial right, cause, action, proceeding or process within the jurisdiction of the Legislature of British Columbia except a proceeding grounded on events occurring during or after the required attendance of the person in British Columbia.

Order for additional witness fees and expenses

7 (1) A person who is required to attend before a court in British Columbia by a subpoena adopted by a court outside British Columbia, may request the court in British Columbia to order additional fees and expenses to be paid for the person's attendance as a witness.

(2) If satisfied that the fees and expenses previously paid to the person for the person's attendance are insufficient, the court may order the party who obtained the subpoena to pay the person at once such additional fees and expenses as the court considers sufficient.

(3) Fees and expenses paid under an order made under this section are disbursements in the cause.

Scope of Act

8 This Act does not apply to a subpoena that is issued with respect to a criminal offence under an Act of Canada.

Schedule A

Witness Fees and Travelling Expenses

The witness fees and travelling expenses required to be given to the witness on service of an interprovincial subpoena are a sum of money or a sum of money together with valid travel warrants, sufficient to satisfy the following requirements:

- 1 The fare for transportation by the most direct route via public commercial passenger carrier between the witness' place of residence and the place where the witness is required to attend court, in accordance with the following rules:
 - (a) if the journey or part of it can be made by air, rail or bus, that part of the journey must be by airline, rail or bus by tourist class or equivalent class via carriers on which the witness can complete the total journey to the place where the witness is required to attend court on the day before his or her attendance is required;
 - (b) if railway transportation is necessary for part of the journey, and sleeping accommodation would normally be obtained for such a journey, the fare for sleeping accommodation must be included;
 - (c) in calculating the fare for transportation, the most rapid form of transportation by regularly scheduled carrier must be accorded priority over all other forms;
 - (d) if the material the witness is required to produce in court is of such a weight or size as to attract extra fares or

charges, the amount required must be included.

- 2 The cost of hotel accommodation for the total journey and for not less than 3 days at the place where the witness is required to attend court, in an amount not less than \$60.
- 3 The cost of meals for the total journey and for not less than 3 days at the place where the witness is required to attend court, in an amount not less than \$48.
- 4 In addition to the amounts described above, an allowance of \$20 for each day of absence from the ordinary residence of the witness, and the witness must be paid for not less than 3 days on account of this allowance, in an amount not less than \$60.

Schedule B

Subpoena (Interprovincial) Act

Certificate

I, (*name of judge*), a judge of the (*name of Supreme Court*) certify that I have heard and examined (*name of applicant party or the party's counsel*), who seeks to compel the attendance of (*name of witness*) to produce documents or other articles or to testify, or both, in a proceeding in British Columbia in the (*name of court in which witness is to appear*) in the case of (*style of cause or proceeding*). I further certify that I am satisfied that the appearance of (*name of witness*) as a witness in the proceeding is necessary for the adjudication of the proceeding, and, in relation to the nature and importance of the proceeding, is reasonable and essential to the administration of justice in British Columbia.

The *Subpoena (Interprovincial) Act* makes the following provision for the immunity of (*name of witness*).

A person required to attend before a court in British Columbia by subpoena adopted by a court outside British Columbia

(a) is deemed, while in British Columbia in answer to the subpoena, not to have submitted to the jurisdiction of the courts of British Columbia except as a witness in the proceedings in which the person is subpoenaed, and

(b) is absolutely immune from seizure of goods, service of process, execution of judgment, garnishment, imprisonment or molestation of any kind relating to a legal or judicial right, cause, action, proceeding or process within the jurisdiction of the Legislature of British Columbia except a proceeding grounded on events occurring during or after the required attendance of the person in British Columbia.

Dated [*month, day, year*].

(*Seal of court*)

(Signature of judge).....

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